

HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ANA LOPEZ DEMETRIO and FRANCISCO
EUGENIO PAZ, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

SAKUMA BROTHERS FARMS, INC.,

Defendant.

NO. 2:13-cv-01918-MJP

**MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

**NOTE ON MOTION CALENDAR:
November 14, 2014 at 10 a.m.**

Set for Oral Argument

**MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT
CASE No. 2:10-cv-00774-RAJ**

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I. INTRODUCTION

Plaintiffs Ana Lopez Demetrio and Francisco Eugenio Paz respectfully submit this motion for final approval of the class action settlement they reached with Defendant Sakuma Brothers Farms, Inc. (“Sakuma”).¹ For the reasons set forth in this motion and in the papers previously submitted in support of preliminary approval (Dkts. 26-29), the settlement is fair, adequate, and reasonable, and in the best interests of the Settlement Class. To Plaintiffs’ knowledge, it is the largest farm worker wage and hour class action settlement on record in Washington. Accordingly, Plaintiffs request that the Court grant final approval of the settlement by: (1) approving the Settlement Agreement as fair, adequate, and reasonable for the Settlement Class; (2) determining that adequate notice was provided to the Settlement Class; (3) approving the awards of attorneys’ fees, litigation expenses, and notice and claims administration costs for Class Counsel; and (4) approving the service awards for Plaintiffs.

II. ARGUMENT AND AUTHORITY

When considering a motion for final approval of a class action settlement under Rule 23, a court must determine whether the settlement is “fundamentally fair.” *Laguna v. Coverall N. Am., Inc.*, 753 F.3d 918, 923 (9th Cir. 2014) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1988)). A settlement merits final approval, when “the interests of the class are better served by the settlement than by further litigation.” *Manual for Complex Litigation* (Fourth) (“MCL 4th”) § 21.61, at 424 (2014). Although Rule 23 imposes procedural requirements on the approval of a class settlement, a district court’s only role in reviewing the substance of a settlement is to ensure that it is “fair, adequate and free from collusion.” *Hanlon*, 150 F.3d at 1027. Where Plaintiffs face “real dangers in proceeding on their case,” where “the class gain[s] significant benefits from the settlement,” and where “Plaintiffs’

¹ Capitalized terms in this brief have the same meaning as in the Stipulation of Settlement and Release Between Plaintiffs and Defendant, Dkt. 27.

1 lawyers receive[] fees that are overall reasonable,” a class action settlement agreement is “fair,
 2 reasonable, and adequate.” *Laguna*, 753 F.3d at 925.

3 **A. The Settlement Satisfies the Criteria for Final Approval**

4 In deciding whether to grant final approval to a class action settlement, courts consider
 5 several factors, including:

6 (1) the strength of the plaintiffs’ case; (2) the risk, expense,
 7 complexity, and likely duration of further litigation; (3) the risk
 8 of maintaining class action status throughout the trial; (4) the
 9 amount offered in settlement; (5) the extent of discovery
 completed and the stage of the proceedings; (6) the experience
 and views of counsel; (7) the presence of a government
 participant; and (8) the reaction of the class members to the
 proposed settlement.

10 *Laguna*, 753 F.3d at 923 (citing *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th
 11 Cir. 2004); *Torrissi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993)). Applied to
 12 this case, the relevant criteria support final approval of the settlement.

13 1. The Strength of Plaintiffs’ Case

14 Although Plaintiffs have thoroughly investigated the factual and legal bases for their
 15 claims and have developed substantial evidence supporting their allegations, there were
 16 significant risks in continuing the litigation had settlement not occurred.

17 Plaintiffs alleged that Sakuma engaged in a systematic course of unlawful conduct with
 18 respect to migrant and seasonal employees who performed piece-rate fruit harvest work for the
 19 company. Plaintiffs alleged the violations took five primary forms: (1) Sakuma knowingly
 20 failed to pay for all hours worked before and after picking fruit; (2) Sakuma knowingly failed
 21 to pay the Washington minimum wage; (3) Sakuma knowingly failed to provide rest periods on
 22 the employer’s time; (4) Sakuma knowingly failed to provide and keep accurate statements of
 23 hours worked; and (5) Sakuma knowingly failed to comply with an agreed-upon working
 24 arrangement during the 2013 blueberry harvest. Plaintiffs alleged Sakuma’s conduct violated
 25 Washington wage and hour laws and the Migrant and Seasonal Agricultural Worker Protection
 26 Act (“AWPA”).

1 Sakuma steadfastly denied that it failed to pay migrant and seasonal workers for all
 2 hours worked, failed to record all hours worked, and failed to provide rest breaks. Sakuma also
 3 forcefully argued that even if Plaintiffs were successful in proving their claims, any damages
 4 award would be minimal due to the lack of records of off-the-clock hours worked and missed
 5 rest breaks. If Sakuma was able to convince a jury that Plaintiffs' allegations were overstated
 6 or unfounded, Sakuma could effectively reduce the recoverable damages or eliminate them
 7 altogether. In addition, Sakuma argued that any discretionary statutory damages awards under
 8 AWPA would be minimal for alleged violations of the recordkeeping and pay statement
 9 requirements, and that the Court would not award statutory damages for the wage claims where
 10 actual damages compensated the workers for their actual wage loss.

11 Under the settlement, Settlement Class members avoid all of those risks and obstacles to
 12 recovery and receive substantial benefits in a timely fashion.

13 2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

14 Another factor in assessing the fairness of the proposed settlement is the complexity,
 15 expense, and likely duration of this lawsuit had settlement not been achieved. *Officers for*
 16 *Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982). Throughout the negotiation
 17 process, Sakuma vigorously defended its position and expressed every intention of continuing a
 18 spirited defense, absent a settlement, through class certification and trial. Class Counsel have
 19 significant experience in wage and hour class action litigation and know that any case involving
 20 a class of workers can, and often does, lead to costly litigation that goes on for years.

21 Moreover, there is a substantial risk of losing inherent in any jury trial, particularly one
 22 involving immigrant farm workers who do not speak or understand English. *See Salas v. Hi-*
Tech Erectors, 168 Wn.2d 664, 672, 230 P.3d 583 (2010) ("Issues involving immigration can
 23 inspire passionate responses that carry a significant danger of interfering with the fact finder's
 24 duty to engage in reasoned deliberation."). Considering the migrant nature of the class and
 25 class member fears of retaliation and immigration consequences, Plaintiffs would have faced
 26

1 challenges securing witnesses to testify about Sakuma's practices at trial. Even if Plaintiffs
 2 prevailed at trial, Sakuma could appeal, threatening a reversal of any favorable outcome and
 3 causing significant delays in obtaining any relief for Settlement Class members.

4 Entering into mediation, Plaintiffs and their counsel were confident in the strength of
 5 their case, but also pragmatic in their awareness of the risks inherent to litigation and the
 6 various defenses available to Sakuma. The reality is that this Court could have refused to
 7 certify a class or could have certified a class only on limited claims. Even if a class was
 8 certified before settlement, it is possible that members could have ended up recovering only a
 9 fraction of the Settlement Agreement benefits, facing a bankrupt defendant due to mounting
 10 legal costs, or losing the case at or before trial. These facts were significant enough to
 11 convince Plaintiffs and their counsel that the benefits of the Settlement Agreement reached
 12 with Sakuma outweigh the gamble of continued litigation.

13 Sakuma's financial situation also presented a significant risk that Plaintiffs and the class
 14 would be unable to collect all or a significant portion of any judgment entered against Sakuma.
 15 See *Laguna*, 753 F.3d at 923 (citing the defendant's poor financial health and the increased
 16 "chance that Plaintiffs would be left with nothing if they continued to litigate their claims" in
 17 affirming district court's approval of class action settlement). Plaintiffs' analysis of available
 18 financial information revealed that Sakuma's ability to pay a judgment beyond the amount
 19 recovered in this settlement is highly uncertain. Insurance coverage was not available to satisfy
 20 Plaintiffs' claims, and Sakuma indicated that due to financial issues, it could not satisfy a large
 21 class-wide judgment or the continuing accrual of attorneys' fees. Dkt. 28, ¶ 21. Due to its
 22 inability to make a lump sum settlement payment, Sakuma had to agree to installment
 23 payments over a one-year period. See Dkt. 27, ¶ 13(d).

24 In light of these hurdles, it is unlikely that Plaintiffs and Settlement Class Members
 25 could recover the maximum potential damages for their claims after a trial.
 26

1 3. The Risk of Maintaining Class Action Status

2 This Court has held that for purposes of settlement this case satisfies the requirements
 3 of Rule 23. *See* Preliminary Approval Order (Dkt. 31) at 2. The Court's ruling finds ample
 4 support in both the facts and the law. The legal issues that arose from Sakuma's common
 5 practices with regard to non-payment for pre-shift and post-shift work, failure to provide rest
 6 breaks, unlawful time rounding, and pay statement and recordkeeping violations are uniform
 7 for all class members and could be adjudicated on a class-wide basis. *See Abdullah v. U.S. Sec.*
 8 *Assoc., Inc.*, 731 F.3d 952, 964 (9th Cir. 2013) (finding predominance satisfied where the
 9 proposed class is "sufficiently cohesive to warrant adjudication by representation").

10 Although Plaintiffs are confident class certification could be maintained through trial,
 11 Sakuma disagrees. Sakuma has strenuously denied that class certification is appropriate. If
 12 Sakuma was able to present convincing facts to support its position, the Court could have
 13 refused to certify the class, leaving no remedy for hundreds of Sakuma's piece rate workers.

14 4. The Amount Offered in Settlement

15 The settlement requires Sakuma to pay \$500,000 to the Settlement Class Members,
 16 \$3,000 each to named Plaintiffs Ana Lopez Demetrio and Francisco Eugenio Paz for their
 17 service in this action, and a total of \$344,000 for attorneys' fees and costs and notice and
 18 claims administration costs. Sakuma has also agreed to injunctive relief that ensures employees
 19 are paid for all work performed, that employees receive rest breaks required by law, and that
 20 employees receive pay statements with accurate statements of hours worked.

21 The funds distributed to the Settlement Class will be allocated in a manner that is fair
 22 and reasonable. According to updated and corrected data received from Sakuma, the
 23 Settlement Class consists of approximately 923 piece-rate workers.² The settlement provides

24 ² At the preliminary approval stage, the parties believed the class consisted of 1,221 current and former Sakuma
 25 employees. Dkt. 26 at 3. Defendant provided an updated and corrected class list on July 3. Cote Decl., ¶ 3. The
 26 new list contained 961 entries because several duplicates had been removed. *Id.* In addition, certain names with
 slightly different spellings had been listed multiple times in the earlier class list (likely due to issues involving
 class members who were unable to read or write), and those listings were consolidated. *Id.* After receiving this
 list, Class Counsel performed additional analysis and identified 923 unique Settlement Class Members. Decl. of

1 that the \$500,000 class payment will be distributed proportionately to “Qualified Claimants.”
 2 Dkt. 27, ¶ 18. Each Settlement Class Member who returns a valid and timely Claim Form is a
 3 Qualified Claimant. *Id.* The determination of each Qualified Claimant’s proportionate share of
 4 the class payment will be based on the following formula: (a) the Class Payment will be
 5 divided by the total number of days worked during the Claims Period by all Qualified
 6 Claimants, resulting in a gross daily payout amount, and then (b) the gross daily payout amount
 7 will be multiplied by each individual Qualified Claimant’s total days worked during the Claims
 8 Period. *Id.*

9 As of September 19, 285 Settlement Class Members, over 30% of the class, had filed
 10 claims to share in the settlement proceeds. Declaration of Rachael Pashkowski in Support of
 11 Final Approval, ¶ 12. If no additional claims are received, Plaintiffs estimate that each
 12 Qualified Claimant will receive approximately \$11.69 per day worked.³ *Id.*, ¶ 12. Plaintiffs
 13 reached this estimate by dividing the \$500,000 class settlement payment by the total days
 14 worked by Qualified Claimants who have submitted claims thus far. *Id.* As of September 19,
 15 the average number of days worked by each Qualified Claimant is 150 and the average
 16 Qualified Claimant payment is \$1,753.50. *Id.* If no more Settlement Class Members make
 17 claims before October 16, the maximum payment will be \$4,559.10 for an employee who
 18 worked 390 days during the class period. *Id.* The minimum payment will be \$11.69 for an
 19 employee who worked just one day during the class period. *Id.*

20 Even if every Settlement Class Member submitted a claim, the settlement would
 21 immediately provide the right to an award of between 47 and 62 percent of a possible recovery
 22 after trial. See Dkt. 26 at 15-16. These percentages are well in line with settlements approved
 23 by other courts. See, e.g., *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 964-65 (9th Cir. 2009)

24
 25 Rachael Pashkowski, ¶ 11. Thus, the Class is smaller than previously anticipated, which means that each Qualified
 26 Claimant’s award will be larger than previously anticipated.

³ After the October 16 claim deadline, Plaintiffs will file a supplemental brief identifying the total number of claims made.

1 (approving settlement amounting to 30 percent of damages estimated by the class expert; court
 2 noted that if the plaintiffs were entitled to treble damages, the settlement would be
 3 approximately 10 percent of the estimated damages); *In re Mego Fin. Corp. Sec. Litig.*, 213
 4 F.3d 454, 459 (9th Cir. 2000) (approving a settlement estimated to be worth between 1/6 to 1/2
 5 the plaintiffs' estimated loss); *In re Omnivision Tech., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D.
 6 Cal. 2008) (approving settlement amounting to 6 percent of estimated potential damages).

7 No settlement funds will revert to Sakuma under any circumstances. After proportional
 8 distribution of the settlement payments to Qualified Claimants, a *cy pres* fund will be created
 9 for non-wage funds that have been disbursed but remain unclaimed after a period of 120 days.
 10 Dkt. 27, ¶ 18(c)(2). Any *cy pres* funds will be disbursed to the Northwest Justice Project
 11 (“NJP”). *Id.* Class Counsel will request that any such funds be earmarked by NJP for
 12 assistance to agricultural workers.⁴ The work of NJP benefits people who, like Settlement
 13 Class members, may require legal assistance regarding unlawful wage practices, so the
 14 organization’s work serves “the objectives of the underlying statutes[] and the interests of the
 15 silent class members” *Lane v. Facebook, Inc.*, 696 F.3d 811, 819-20 (9th Cir. 2012)
 16 (internal quotation omitted). If any Qualified Claimants fail to cash wage award checks within
 17 one year of distribution, Sakuma will report and deliver such funds to the state Department of
 18 Revenue pursuant to RCW 63.29.

19 In exchange for these benefits, Settlement Class Members agree to release Sakuma from
 20 the claims asserted in the lawsuit. The Settlement Agreement’s release is narrowly-tailored and
 21 fundamentally fair. *See* Dkt. 27, ¶¶ 11, 19. Settlement Class Members do not agree to release
 22 Sakuma from liability for claims not alleged in the lawsuit and do not agree to release Sakuma
 23 from liability (including a declaratory judgment) for Sakuma’s failure to separately pay piece-
 24 rate workers for rest breaks (or for missed rest breaks) after December 31, 2013. *Id.*

25 _____
 26 ⁴ NJP provides civil legal assistance and representation to low-income people in cases affecting basic human
 needs, including a focus on “employment issues primarily for agricultural workers related to lost wages.”
<http://nwjustice.org/summary-priorities>.

1 5. The Extent of Discovery Completed and the Stage of the Proceedings

2 Final approval is favored because substantial investigation and discovery were
 3 completed prior to the settlement. Courts consider the extent of discovery completed and the
 4 stage of the proceedings in determining whether a class action settlement is fair, adequate and
 5 reasonable. Before filing this lawsuit, Plaintiffs' counsel spent three months investigating the
 6 factual bases of the workers' claims, interviewing workers, analyzing pay statements and other
 7 documents, researching legal issues, and preparing the initial complaint. Dkt. 28, ¶ 4. This
 8 investigation included multiple meetings with dozens of workers. *Id.*, ¶ 5; Dkt. 29, ¶ 10.

9 After the complaint was filed, Plaintiffs continued to investigate the facts and law. The
 10 parties conducted extensive discovery over several months, including the production of
 11 thousands of pages of documents and data, the depositions of both named Plaintiffs and three
 12 Sakuma representatives, and an on-site inspection of Sakuma's property. *See* Dkt. 28, ¶¶ 4-5.
 13 Plaintiffs pursued lengthy discovery calls to obtain broad discovery, which resulted in the
 14 production of many additional documents and data that had not previously been produced. *Id.*,
 15 ¶ 4. In addition, Class Counsel spent a considerable amount of time interviewing Class
 16 Members and potential witnesses—most in Spanish or with the assistance of Triqui and
 17 Mixteco interpreters. *Id.*, ¶ 5; Dkt. 29, ¶¶ 9-10. Class Counsel estimate they interviewed more
 18 than 200 individuals who worked for Sakuma.⁵ Dkt. 28, ¶ 5; Dkt. 29, ¶ 10. These interviews
 19 proved very helpful in allowing counsel to assess the strengths and weaknesses of Plaintiffs'
 20 claims and in preparing the case for mediation and settlement. Dkt. 28, ¶ 5.

21 The settlement is the result of a thorough investigation, formal and informal discovery,
 22 and an evaluation of Plaintiffs' legal claims.

23
 24
 25
 26 5 This number includes only pre-settlement class member interviews, so it does not include the hundreds of
 contacts Class Counsel have had with Settlement Class Members regarding the settlement. Pashkowski Decl., ¶¶
 5, 8-9.

1 6. The Experience and Views of Counsel

2 Where Class Counsel are qualified and well informed, their opinion that a settlement is
 3 fair, reasonable, and adequate is entitled to significant weight. *See Pelletz v. Weyerhaeuser*
 4 *Co.*, 255 F.R.D. 537, 543 (W.D. Wash. 2009). Here, in addition to their expertise in class
 5 actions, Class Counsel have been involved in some of the most significant farm worker cases in
 6 Washington. Declaration of Sarah Leyrer in Support of Motion for Final Approval, ¶ 7. Based
 7 on their research and review of past cases, this settlement appears to be the largest farm worker
 8 class action settlement in Washington history. *Id.* Class Counsel believe the settlement is fair,
 9 reasonable, adequate, and in the best interest of the Settlement Class as a whole. *See* Dkt. 28, ¶
 10 7; Dkt. 29, ¶ 13.

11 7. The Presence of a Governmental Participant

12 No governmental entity is a party to this action. The Settlement Agreement required
 13 Sakuma to provide relevant federal and state officials notice of the settlement within ten days
 14 of Plaintiffs' filing the preliminary approval motion. Dkt. 27, ¶ 22; *see also* 28 U.S.C. §
 15 1715(b). Sakuma did not comply with this provision of the Settlement Agreement based on its
 16 belief that the Class Action Fairness Act ("CAFA") notice requirement did not apply in this
 17 case. Plaintiffs just learned this month that Sakuma had not submitted the notices required by
 18 28 U.S.C. § 1715(b) and the Settlement Agreement. Declaration of Marc C. Cote in Support of
 19 Motion for Final Approval ("Cote Decl."), ¶ 4. Thus, Plaintiffs requested that Sakuma
 20 immediately provide such notices. *Id.* On September 17, 2014 and September 22, 2014,
 21 Sakuma sent CAFA notices to the appropriate state and federal officials. *Id.*

22 "Although CAFA does not create an affirmative duty for either state or federal officials
 23 to take any action in response to class action settlement, CAFA presumes that, once put on
 24 notice, either state or federal officials will raise any concerns that they may have during the
 25 normal course of the class action settlement procedures." *Garner v. State Farm Auto Ins. Co.*,
 26 No. CV 08 1365 CW (EMC), 2010 WL 1687832, at *14 (N.D. Cal. Apr. 22, 2010).

27 "Under Section 1715(d), an order granting final approval of a settlement agreement may

1 not take place earlier than ninety days after the appropriate federal and state officials have been
 2 served with notice.” *In re Processed Egg Products Antitrust Litig.*, 284 F.R.D. 249, 258 n.12
 3 (E.D. Pa. 2012). As in *In re Processed Egg Products*, Plaintiffs believe this Court should
 4 proceed with the final approval hearing “as scheduled and to hold its decision on the Plaintiffs’
 5 motion for final approval in abeyance until the ninety-day expiration date [has] passed without
 6 any objections or requests for hearings being received from any relevant authority pursuant to
 7 28 U.S.C. § 1715(d).” *Id.* at 258 n.12. The ninety-day expiration date will pass on December
 8 21, 2014. Holding a decision on final approval in abeyance until December 21 will result in the
 9 least prejudice to class members, who should not be punished for Sakuma’s failure to comply
 10 with 28 U.S.C. § 1715(d) and the Settlement Agreement.⁶

11 8. The Reaction of Settlement Class Members

12 A positive response to a settlement by the class—as evidenced by the fact that there
 13 have been only two opt-outs and no objections—further supports final approval.⁷ *See Pelletz*,
 14 255 F.R.D. at 543. As of September 19, 285 Settlement Class Members have submitted valid
 15 claims. Pashkowski Decl., ¶ 12. The deadline to submit claims, opt out, or object to the
 16 settlement is October 16, 2014.⁸ Thus, Plaintiffs will provide further analysis of this factor
 17 when they file response papers regarding any objections to the settlement. If there are no
 18 objections, Class Counsel will, of course, advise the Court.

19 ⁶ In addition, the settlement notice issued to Settlement Class Members informs them that the final fairness hearing
 20 will occur on November 14, 2014 at 10:00 a.m., so that hearing should not be changed.

21 ⁷ Class Counsel received a total of nine exclusion forms. Pashkowski Decl., ¶ 13. Of those, three of the
 22 individuals submitted both exclusion forms and claim forms due to confusion about how to make a claim. *Id.*
 23 Class Counsel followed up with these individuals, and the individuals confirmed they intended to make claims and
 24 would like to withdraw the exclusion forms. *Id.* Four other Settlement Class Members also originally submitted
 25 exclusion forms, but Class Counsel followed up with these individuals and learned that they also intended to make
 claims and did not understand that the form they originally submitted would exclude them from the settlement. *Id.*
 These individuals asked that their exclusion forms be withdrawn, and they submitted claim forms. *Id.* Class
 Counsel attempted to reach the two remaining individuals who submitted exclusion forms to ensure they did not
 intend to make claims, but they were unreachable. *Id.* Thus, their exclusion forms will be processed unless they
 respond that they intend to make claims before October 16.

26 ⁸ Notice packets were mailed on Friday July 18, 2014. Nordby Decl., ¶ 4. Thus, the 90-day deadline is October
 16. Class Counsel revised the notice, claim forms, and exclusion forms to reflect the October 16 deadline before
 mailing the notice packets. Nordby Decl., ¶ 4.

1 **B. The Settlement Is the Result of Informed, Arm's-Length Negotiations**

2 Courts in the Ninth Circuit “put a good deal of stock in the product of an arms-length,
 3 non-collusive, negotiated resolution, and have never prescribed a particular formula by which
 4 that outcome must be tested.” *Rodriguez*, 563 F.3d at 965 (internal citations omitted). The
 5 Ninth Circuit will not overturn approval of a compromised settlement “unless the terms of the
 6 agreement contain convincing indications that the incentives favoring pursuit of self-interest
 7 rather than the class’s interests in fact influenced the outcome of the negotiations”
 8 *Laguna*, 753 F.3d at 924 (quoting *Staton v. Boeing Co.*, 327 F.3d 938, 960 (9th Cir. 2003)).

9 When, as in this case, an attorney fee award is “clearly reasonable” as viewed through the
 10 appropriate application of the lodestar method, “the chance of collusion narrows to a slim
 11 possibility.” *Id.* at 925.

12 To reach this settlement, Plaintiffs and Sakuma engaged in extensive negotiations,
 13 including a fifteen-hour mediation session with Teresa Wakeen, an experienced and respected
 14 mediator. Dkt. 28, ¶ 2. After the mediation, the parties continued to negotiate the specific
 15 terms of the Settlement Agreement, which was fully and finally executed by May 29, 2014.
 16 Dkt. 27 at 22-24.

17 The Settlement Agreement is the result of intensive, arm's-length negotiations between
 18 experienced attorneys who are familiar with class action litigation and with the legal and
 19 factual issues of this case. Dkt. 28, ¶¶ 2-4, 7-8; Dkt. 29, ¶¶ 10-13. Class Counsel are
 20 particularly experienced in the litigation, certification, trial, and settlement of wage and hour
 21 class action cases similar to this case as well as the legal issues facing immigrant farm workers.
 22 Dkt. 28, ¶¶ 9-12; Dkt. 29, ¶¶ 4-9. In negotiating the Settlement Agreement, counsel had the
 23 benefit of years of experience litigating class actions and a familiarity with the facts of this
 24 case. *Id.* Such negotiations are *prima facie* evidence of a settlement that is fair and reasonable.

25 See *Hughes v. Microsoft Corp.*, No. C98-1646C, C93-0178C, 2001 WL 34089697, at *7 (W.D.
 26 Wash. Mar. 26, 2001) (“A presumption of correctness is said to attach to a class settlement
 reached in arms-length negotiations between experienced capable counsel after meaningful

1 discovery."); *see also Pelletz*, 255 F.R.D. at 542-43 (approving settlement "reached after good
 2 faith, arms-length negotiations"); *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 227
 3 F.R.D. 553, 567 (W.D. Wash. 2004) (approving settlement "entered into in good faith,
 4 following arms-length and non-collusive negotiations"); *In re Omnivision Tech., Inc.*, 559 F.
 5 Supp. 2d at 1043 (quoting *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 622 (N.D. Cal. 1979))
 6 ("The recommendations of plaintiffs' counsel should be given a presumption of
 7 reasonableness.").

8 Here, the settlement terms provide further support that the settlement is a result of
 9 informed, arms-length negotiations. One key negotiated element of the settlement was that no
 10 settlement funds, under any circumstances, would revert to Sakuma. Settlement Class
 11 Members, regardless of how many make claims, will share proportionately in the \$500,000
 12 class payment, based on the number of days they worked at Sakuma during the years at issue.

13 Moreover, the amount of attorneys' fees Sakuma must pay under the settlement is well
 14 below the actual fees Class Counsel have incurred. *See infra* section II.D. Sakuma has agreed
 15 to pay these fees in addition to the settlement awards due to Qualified Claimants. Thus, this is
 16 not a "common fund" payment in which Settlement Class Members pay for attorneys' fees and
 17 costs out of their settlement awards. In addition, the proposed class representative incentive
 18 awards are modest and commensurate to the efforts the class representatives have taken on
 19 behalf of the Settlement Class. *See infra* section II.E.

20 **C. The Court-Ordered Notice Program Is Constitutionally Sound and Is Being Fully
 21 Implemented**

22 This Court has already determined that the proposed notice program in this case meets
 23 the requirements of due process and applicable law, provides the best notice practicable under
 24 the circumstances, and constitutes due and sufficient notice to all individuals entitled thereto.
 25 Dkt. 31, ¶ 5. As Settlement Administrators, Class Counsel received Settlement Class member
 26 names, mailing addresses, and telephone numbers and implemented the notice plan. *See*
 Declaration of Eden Nordby ("Nordby Decl."), ¶¶ 3-4. Notice packets were mailed to

1 Settlement Class Members on July 18, 2014. *Id.*, ¶ 4. Class Counsel also distributed notice
 2 packets to Settlement Class Members, explained the terms of the settlement, and assisted
 3 Settlement Class members in completing claim forms in a meeting with Settlement Class
 4 Members on July 27, 2014. Cote Decl., ¶ 5. Class Counsel received approximately 115 claim
 5 forms from Settlement Class Members at that meeting. *Id.*

6 Although 169 of the mailed notice packets were returned as undeliverable, it is likely
 7 that many of these Settlement Class Members received notice of the settlement because (1)
 8 Class Counsel sent notice packets to every address Class Counsel had on file for each
 9 Settlement Class Member, resulting in notice packets being sent to multiple addresses for some
 10 Settlement Class Members; (2) Class Counsel had a meeting regarding the settlement with 115
 11 Settlement Class Members and assisted these Settlement Class Members with claim forms; (3)
 12 Class Counsel went door-to-door at Sakuma's labor camp to advise residents of the settlement,
 13 answer questions, offer help with the forms, and distribute cards that included the settlement
 14 information line telephone number; and (4) Class Counsel mailed notice packets to any
 15 Settlement Class Member who called Class Counsel to request one. Nordby Decl., ¶¶ 4–6;
 16 Cote Decl., ¶ 5; Pashkowski Decl., ¶ 6–7. Moreover, a copy of this motion for final approval,
 17 including the fee request, is available for any Settlement Class Member who requests it.⁹ Cote
 18 Decl., ¶ 6; *see also* Dkt. 27 at 37.

19 In addition to fully implementing the Court-ordered notice plan, Class Counsel has
 20 made additional efforts to reach Settlement Class Members who reside in California. First,
 21 Class Counsel created radio announcements about the settlement to be broadcast on Spanish-
 22 language radio stations that reach areas of California where potential class members are
 23 concentrated. Pashkowski Decl., ¶ 10. Second, Class Counsel is working with community
 24

25 ⁹ The Notice of Class Action Settlement provides, "If you contact Class Counsel at one of the above addresses or
 26 phone numbers and request a copy of the motion for final approval, Class Counsel will send you a copy by mail at
 the address you give them." Dkt. 27 at 37. In this case, this approach is preferable to a settlement website because
 most Settlement Class Members do not use the internet. *See generally* Dkt. 29, ¶¶ 8–9 (discussing migrant and
 indigenous background of class members, most of whom have limited language skills).

1 organizations to post notices of the settlement in locations frequented by farm workers in and
 2 around Madera, California and Santa Maria, California. *Id.* Class Counsel targeted Madera
 3 and Santa Maria based on the number of unreturned claim forms for Settlement Class Members
 4 who reside in those areas. *Id.*

5 After the claim, exclusion, and objection deadline on October 16, 2014 and before the
 6 final approval hearing, Class Counsel will supplement this submission with information (1)
 7 confirming that the Class Counsel has fully implemented the Notice Plan, (2) describing the
 8 number of exclusions and objections to the settlement, and (3) providing the total number of
 9 claims submitted.

10 **D. The Payment of Attorneys' Fees and Costs and Notice and Claims Administration
 Costs Is Fair and Reasonable**

11 “Attorneys’ fees provisions included in proposed class action settlement agreements
 12 are, like every other aspect of such agreements, subject to the determination of whether the
 13 settlement is ‘fundamentally fair, adequate, and reasonable.’” *Staton*, 327 F.3d at 963 (quoting
 14 Fed. R. Civ. P. 23(e)). However, the Ninth Circuit has recognized that “in the settlement
 15 context fees are a subject of compromise.” *Laguna*, 753 F.3d at 922 (citing *Staton*, 327 F.3d at
 16 966). “[S]ince the proper amount of fees is often open to dispute and the parties are
 17 compromising precisely to avoid litigation, the [district] court need not inquire into the
 18 reasonableness of the fees at even the high end with precisely the same level of scrutiny as
 19 when the fee amount is litigated.” *Id.* (quoting *Staton*, 327 F.3d at 966).

20 Moreover, “the parties to a class action may simultaneously negotiate merits relief and
 21 an award of attorneys’ fees under a fee-shifting statute” *Staton*, 327 F.3d at 971 (citing
 22 *Evans v. Jeff D.*, 475 U.S. 717, 720 (1986)). “In the course of judicial review, the amount of
 23 such attorneys’ fees can be approved if they meet the reasonableness standard when measured
 24 against statutory fee principles.” *Id.* at 972. The lodestar calculation method is appropriate
 25 where, as here, a fee-shifting statute authorizes “the award of fees to ensure compensation for
 26 counsel undertaking socially beneficial litigation,” particularly where a significant part of the

1 relief requested is injunctive in nature. *Laguna*, 753 F.3d at 922 (quoting *In re Bluetooth*
 2 *Headset Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011)).

3 Washington fee-shifting statutes provide for mandatory awards of attorneys' fees and
 4 costs to workers' counsel in cases in which workers recover wages owed, which is undoubtedly
 5 "socially eneficial litigation." See RCW 49.48.030 (in "any action" in which employee
 6 recovers wages or salary owed, "reasonable attorney's fees, in an amount to be determined by
 7 the court, shall be assessed against said employer or former employer"); RCW 49.46.090
 8 (employee who recovers for violations of minimum wage law is entitled to "costs and such
 9 reasonable attorney's fees as may be allowed by the court"); RCW 49.52.070 (employer who
 10 willfully withholds wages "shall be liable . . . for twice the amount of wages unlawfully
 11 [withheld] . . . together with costs of suit and a reasonable sum for attorney's fees").¹⁰

12 Here, Plaintiffs' central claims are under Washington fee-shifting statutes, and Plaintiffs
 13 secured valuable injunctive relief in addition to a monetary settlement. Thus, the lodestar
 14 method is appropriate. Under the lodestar method, Plaintiffs' request for payment of fees is
 15 reasonable. In addition, Plaintiffs' requests for payment of litigation expenses and settlement
 16 notice and administration costs are reasonable.

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 20 ¹⁰ Moreover, courts regularly award full attorneys' fees and costs under fee-shifting wage statutes where the
 21 underlying wage claims and AWPA claims arise from a common core of facts, even though AWPA does not
 22 contain its own fee-shifting provision. See, e.g., *De Leon v. Trevino*, 163 F.Supp.2d 682, 685 (S.D. Tex. 2001)
 23 ("Plaintiffs' claims under the FLSA and the AWPA all arose from the identical nucleus of facts. Accordingly, this
 24 Court deems it appropriate that attorneys' fees should include all hours reasonably spent on the litigation as a
 25 whole."); *Villalobos v. Vasquez-Campbell*, 1991 WL 311902, at *7-8 (W.D. Tex. Nov. 15, 1991) ("The claims
 26 under the Agricultural Workers Protection Act, the Fair Labor Standards Act, and breach of contract all arose from
 the identical nucleus of facts. This Court awards Plaintiffs their reasonable attorneys' fees for *all* hours worked on
 this action."); *Gooden v. Blanding*, 686 F. Supp. 896, 897 (S.D. Fla. 1988) ("While only the FLSA provides for
 attorneys fees, both of these actions arise out of the same core facts. Accordingly, this Court deems it appropriate
 that attorneys fees should include all hours reasonably spent on the litigation as a whole."). Because the state law
 wage claims and AWPA claims in this case arise from the same core facts, a full attorney fee and cost award is
 appropriate. Moreover, even after excluding time spent solely on AWPA claims, Plaintiffs' attorneys' fees are still
 well in excess of the amount they request. Cote Decl., ¶¶ 10, 15; Leyrer Decl., ¶ 11.

1 1. Class Counsel's Lodestar Is Reasonable

2 Under the lodestar method, the district court first calculates the “lodestar” by
 3 multiplying the reasonable hours expended by a reasonable hourly rate. *See Staton*, 327 F.3d at
 4 965. Through September 19, 2014, Class Counsel devoted over 1508 hours to the
 5 investigation, litigation and resolution of this complex case, thereby incurring more than
 6 \$389,575 in lodestar.¹¹ Cote Decl., ¶ 10; Leyrer Decl., ¶¶ 5, 9. The declarations of Class
 7 Counsel submitted herewith also break down this total by timekeeper and identify a summary
 8 of the tasks completed by each timekeeper. Cote Decl., ¶ 14; Leyrer Decl., ¶ 9. This summary
 9 is based on the contemporaneous time records for each time keeper. *Id.* Class Counsel’s time
 10 was spent investigating the claims of Plaintiffs and class members, researching and analyzing
 11 legal issues, conducting discovery and depositions, engaging in settlement negotiations and
 12 mediation, and preparing briefing in support of preliminary and final approval of the
 13 settlement. *Id.* Class Counsel estimate they will spend approximately seventy-five additional
 14 hours to see this settlement through to its final resolution, including the work necessary to
 15 oversee that the Settlement Agreement is properly carried out and enforced, responding to
 16 objections to the settlement (if any), fielding calls from Settlement Class Members, and
 17 attending the hearing on final approval. Cote Decl., ¶ 12, Leyrer Decl., ¶ 6.

18 The time Class Counsel devoted to this case is reasonable. Plaintiffs faced a determined
 19 and sophisticated adversary represented by experienced counsel. Class Counsel prosecuted the
 20 claims at issue efficiently and effectively, making every effort to prevent the duplication of
 21 work that might have resulted from having two firms working on this case. Cote Decl., ¶ 16;
 22 Leyrer Decl., ¶ 10. Class Counsel also carefully reviewed their contemporaneous time records,
 23 deleting duplicative work as well as *de minimis* time billed by attorneys and staff who had little
 24 participation in the action. Cote Decl., ¶ 16; Leyrer Decl., ¶ 9. Knowing it was possible they

25
 26¹¹ These totals do not include time spent on the settlement notice and claims administration process, time focused
 on AWPA claims, and time spent litigating the issue of proper payment for pieceworker rest breaks on a going-
 forward basis. Cote Decl. ¶ 10.

1 would never be paid for their work, Class Counsel had no incentive to act in a manner that was
 2 anything but economical. *See Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir.
 3 2008) (“[L]awyers are not likely to spend unnecessary time on contingency cases in the hope of
 4 inflating their fees. The payoff is too uncertain, as to both the result and the amount of the
 5 fee.”). That said, Class Counsel took their charge seriously and endeavored to represent the
 6 interests of the class members to the greatest extent possible.

7 Class Counsel’s hourly rates are also reasonable.¹² In determining a reasonable rate, the
 8 court considers the “experience, skill and reputation of the attorney requesting fees.” *Trevino*
 9 *v. Gates*, 99 F.3d 911, 924 (9th Cir. 1996) (quoting *Schwarz v. Sec’y of Health & Human*
 10 *Servs.*, 73 F.3d 895, 908 (9th Cir.1995)). The court also considers “the prevailing market rates
 11 in the relevant community.” *Blum v. Stenson*, 465 U.S. 886, 895 (1984). Class Counsel are
 12 experienced members of the bar with extensive experience in the area of class actions and farm
 13 worker rights like those at issue here. Cote Decl., ¶¶ 7–11; Dkt. 29, ¶¶ 2-7. Class Counsel set
 14 their rates for attorneys and staff members based on a variety of factors, including, among
 15 others: the experience, skill, and sophistication required for the types of legal services typically
 16 performed; the rates customarily charged in the markets where legal services are typically
 17 performed; and the experience, reputation, and ability of the attorneys and staff members. Dkt.
 18 28, ¶ 14; Dkt. 29 ¶ 15. The rates charged for attorneys and staff members working on this
 19 matter range from \$100.00 to \$400.00, with the majority of the work performed by the
 20 following attorneys: Mr. Cote at an hourly rate of \$300.00, Mr. Ford at an hourly rate of \$375,
 21 Ms. Leyrer at an hourly rate of \$275, and Mr. Haynes at an hourly rate of \$230. *See* Dkt. 28, ¶
 22 14; Dkt. 29, ¶ 15.

23 These are the hourly rates Class Counsel charge in similar matters, and federal courts
 24 have found rates significantly higher than these to be “reasonable for the work performed in
 25

26 ¹² Courts apply each biller’s current rates for all hours of work performed, regardless of when the work was
 performed, as a means of compensating for the delay in payment. *In re Wash. Pub. Power Supply Sys. Sec. Litig.*,
 19 F.3d 1291, 1305 (9th Cir. 1994).

1 each of [Counsel's] respective relevant communities by attorneys of similar skill, experience,
 2 and reputation.” *Pelletz v. Weyerhaeuser Co.*, 592 F. Supp. 2d 1322, 1326-27 (W.D. Wash.
 3 2009) (approving hourly rates for work performed in Seattle that ranged from \$415 to \$760);
 4 *see also Clark v. Payless Shoesource, Inc.*, No. C09-0915-JCC, 2012 WL 3064288, at *3
 5 (W.D. Wash. July 27, 2012) (approving hourly rates of \$600 and \$515 for two Seattle
 6 attorneys); *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 947 (9th Cir. 2007) (affidavits by
 7 plaintiffs' counsel and fee awards in other cases are sufficient evidence of prevailing market
 8 rates). Class Counsel's rates are in the same range that this Court and Washington courts have
 9 approved in past cases. *See, e.g.*, Cote Decl., ¶ 11, Exs. A-D (identifying sample cases in
 10 which rates in the requested range have been approved by this Court and King County Superior
 11 Court for similar class action matters). Thus, Class Counsel's hourly rates are reasonable and
 12 appropriate for calculating the lodestar.

13 Class Counsel's lodestar is much higher than the requested fee. Even though Class
 14 Counsel's lodestar is \$389,575.00 (not including work focused on AWPA claims and not
 15 including future work), Plaintiffs seek just \$327,095.70 in attorneys' fees. Thus, the fee
 16 request is reasonable under the lodestar method.

17 Not only is the attorney fee request reasonable under the lodestar method, Class
 18 Counsel also achieved a very successful result in this “socially beneficial” litigation, resulting
 19 in a substantial recovery for Qualified Claimants and significant injunctive relief that ensures
 20 Sakuma's piece rate pickers will be properly paid and that they will receive rest and meal
 21 breaks. As noted above, even if all Settlement Class Members submitted valid claims, each
 22 would receive a guaranteed award of between 47 and 62 percent of a possible recovery. *See*
 23 Dkt. 26 at 15-16. Based on the number of Qualified Claimants thus far, each Qualified
 24 Claimant will receive an award substantially greater than that. It is unlikely that each Qualified
 25 Claimant could have obtained the result Class Counsel achieved even if Plaintiffs and the class
 26 proved all claims at trial. The excellent result Class Counsel achieved provides further support

1 for approval of Class Counsel's request for attorneys' fees. For these reasons, Plaintiffs
 2 respectfully request that the Court approve the award of attorneys' fees in the amount of
 3 \$327,095.70.

4 2. Class Counsel's Litigation Expenses Are Reasonable

5 The litigation expenses Class Counsel incurred in this case include the following: (1)
 6 filing fees, (2) deposition expenses, (3) copying and mailing expenses; (4) computer research
 7 expenses; (5) factual investigation expenses; and (6) travel expenses. *See Dkt. 28, ¶ 16; Dkt.*
 8 *29, ¶ 17.* Since the commencement of the investigation of the case, Plaintiffs' counsel have
 9 incurred \$9,146.80 in litigation expenses. *See Cote Decl., ¶¶ 10, 18; Leyrer Decl., ¶ 12.* These
 10 out-of-pocket costs were necessary to secure the resolution of this litigation. *See In re Toys R*
 11 *Us-Delaware, Inc.—Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438,
 12 470 (C.D. Cal. 2014) (finding that costs such as filing fees, court reporter deposition fees, travel
 13 expenses, postage, telephone and fax costs, computerized legal research fees, and mediation
 14 fees reasonable expenses in class action litigation); *see also Harris v. Marhoefer*, 24 F.3d 16,
 15 19 (9th Cir.1994) (holding that attorneys may recover reasonable expenses that would typically
 16 be billed to paying clients in non-contingency matters); *In re Immune Response Sec. Litig.*, 497
 17 F. Supp. 2d 1166, 1177-1178 (S.D. Cal. 2007) (reimbursing reasonable expenses in the amount
 18 of \$261,971.79). Plaintiffs respectfully request that the Court approve an award of \$9,141.95
 19 in litigation expenses, which is less than the amount of litigation expenses actually incurred.

20 3. Class Counsel's Notice and Claims Administration Costs Are Reasonable

21 When they filed their preliminary approval motion, Class Counsel anticipated incurring
 22 \$7,762.35 in notice and settlement administration costs. *See Dkt. 28, ¶ 17; Dkt. 29, ¶ 16.* To
 23 date, Class Counsel have incurred \$6,777.03 in notice and settlement administration costs and
 24 \$45,425.00 in notice and settlement administration fees, for a total of \$52,202.03. *Cote Decl., ¶*
 25 *20; Leyrer Decl., ¶¶ 13-14.* The notice and claims administration costs include, but are not
 26 limited to costs of printing and mailing notice packets, translation costs, and costs of a meeting

1 with Settlement Class Members in Burlington to notify the Settlement Class Members of the
 2 settlement and assist with forms. *Id.* These are reasonable costs that were necessary to notify
 3 Settlement Class Members of the settlement and administer the settlement process. Class
 4 Counsel also anticipate incurring \$500 for additional notice efforts in California and \$575.60 in
 5 costs to process and mail payments to Qualified Claimants. Cote Decl., ¶ 20. Thus, total notice
 6 and settlement administration costs (not including attorney and staff time) are expected to total
 7 \$7,852.63. Plaintiffs respectfully request that this Court approve an award of \$7,762.35 in
 8 notice and settlement administration costs, which is less than the anticipated total.¹³

9 **E. The Class Representative Service Awards Are Fair and Reasonable**

10 Service awards compensating named plaintiffs for work done on behalf of the class
 11 attempt to account for financial or reputational risks associated with litigation, and to promote
 12 the public policy of encouraging individual plaintiffs to undertake the responsibility of
 13 representative lawsuits. See *Rodriguez*, 563 F.3d at 958-959; *Pelletz*, 592 F. Supp. 2d at 1329
 14 (“The trial court has discretion to award incentives to the class representatives.”). In reviewing
 15 whether an incentive award is appropriate, the court should take in account “the actions the
 16 plaintiff has taken to protect the interests of the class, the degree to which the class has
 17 benefitted from those actions, … [and] the amount of time and effort the plaintiff expended in
 18 pursuing the litigation.” *Jones v. Agilysys, Inc.*, No. C 12-03516 SBA, 2014 WL 2090034, at
 19 *3 (N.D. Cal. May 19, 2014) (quoting *Staton*, 327 F.3d at 977). Incentive awards are generally
 20 approved so long as the awards are reasonable and do not undermine the adequacy of the class
 21 representatives. See *Radcliffe v. Experian Info. Solutions*, 715 F.3d 1157, 1164 (9th Cir. 2013)
 22 (finding incentive award must not “corrupt the settlement by undermining the adequacy of the
 23 class representatives and class counsel”).

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26 ¹³ Class counsel do not seek additional compensation for the time spent by attorneys and staff on notice and
 settlement administration tasks even though they have spent almost two hundred hours on such tasks. Cote Decl.,
 ¶ 21; Leyrer Decl., ¶ 13.

1 Here, Class Counsel ask the Court to award incentive payments to Plaintiffs in the
 2 amount of \$3,000 each. These awards will compensate Plaintiffs for their time and effort in
 3 stepping forward to serve as proposed class representatives, assisting in the investigation,
 4 keeping abreast of the litigation, being deposed, and meeting and communicating with Class
 5 Counsel on an ongoing basis regarding the progress of the litigation, including participating in
 6 mediation. *See* Dkt. 28, ¶ 20. \$3,000 incentive awards to each Plaintiff are reasonable under
 7 the circumstances, and are well in line with awards approved by federal courts in Washington
 8 and elsewhere. *See, e.g.*, *Pelletz*, 592 F. Supp. 2d at 1329-30 & n.9 (approving \$7,500
 9 incentive awards where named plaintiffs assisted Class Counsel, responded to discovery, and
 10 reviewed settlement terms, and collecting decisions approving awards ranging from \$5,000 to
 11 \$40,000).

12 Throughout the litigation, Plaintiffs consistently acted in the best interest of the class.
 13 The class has benefited greatly from their decision to pursue this action. As discussed, each
 14 Settlement Class Member who files a valid claim will receive a cash award estimated to be over
 15 \$11 per day worked for Sakuma. Plaintiffs have devoted substantial time to this litigation over
 16 the past year. They responded to discovery requests, traveled to Seattle for their depositions,
 17 met with Class Counsel, actively assisted in Class Counsel's investigation, consulted with Class
 18 Counsel by telephone, participated in mediation, and have remained in touch with Class
 19 Counsel to monitor the progress of the settlement. Cote Decl., ¶ 22; Leyrer Decl., ¶¶ 15.

20 In light of Plaintiffs' effort and the risk they undertook to obtain a meaningful result for
 21 the class, Class Counsel requests that the Court approve a \$3,000 service award for each
 22 Plaintiff.

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III. CONCLUSION

This settlement—the largest farm worker wage and hour class action settlement in Washington history—is fair, adequate, and reasonable, and in the best interests of the Settlement Class. Thus, Plaintiffs respectfully request final approval of the settlement so that they can proceed to distribute payments to deserving Settlement Class Members. Plaintiffs request that the Court enter the order granting final approval of the settlement after CAFA’s ninety-day expiration date passes on December 21, 2014, pursuant to 28 U.S.C. § 1715(d).

DATED this 23rd day of September, 2014.

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CERTIFICATE OF SERVICE

I, Marc C. Cote, hereby certify that on September 23, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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